

Report and Decision

on

Application by Ernest Henderson and Others

for

Authorization and Approval

of

Project under Chapter 121A of the General Laws
of the Commonwealth of Massachusetts
and Chapter 652 of the Acts of 1960

and for

Consent

to Formation of a Corporation
to be Organized under the Provisions
of Said Chapter 121A

A public hearing was held at 7:30 P. M. on January 12, 1961 at Room 423 in the State House in Boston, Massachusetts by the Boston Redevelopment Authority (hereinafter called "the Authority") on an Application (hereinafter called "the Application") filed by Ernest Henderson, Robert M. Morgan, William J. Furlong, Carleton Hunneman and M. Murray Weiss (hereinafter called "the Applicants") for authorization and approval of a redevelopment project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 (hereinafter called "the Project"), and for consent to the formation of ~~the project~~ ^{the project} to be organized under the provisions of said Chapter 121A for the purpose of undertaking and carrying out the Project, due notice of said hearing having been given previously by publication and mailing in accordance with Rule 8 of the Rules and Regulations of the Authority for securing the approval of Chapter 121A projects and in accordance with the provisions of Section 13 of Chapter 652 of the Acts of 1960. Joseph W. Lund, Chairman of the Authority, and James G. Colbert and Melvin J. Massucco, members of the Authority, were present throughout the hearing.

Pursuant to the provisions of Section 14 of Chapter 652 of the Acts of 1960, the Applicants filed with the Secretary of the Commonwealth on December 7, 1960 their written acceptance of the provisions of said Chapter and the Authority has in its

possession a Certificate of the Secretary of the Commonwealth to that effect.

The Project consists of the leasing by Charlesbank Apartments, Inc. of Lots 1 and 1A on a plan entitled "Boston Redevelopment Authority City of Boston Suffolk County Massachusetts Whitney Redevelopment Area Land Disposition Plan" by Henry F. Bryant & Son, Inc., Engineers, dated August 25, 1960 (excepting therefrom any land taken for the widening of Longwood Avenue and St. Alphonsus Street pursuant to the Redevelopment Plan of the Authority hereinafter referred to), and the construction, operation and maintenance thereon of an apartment house consisting of a 24-story building containing 277 dwelling units including a janitor's apartment (rather than 278 units as was testified at the hearing) with an appurtenant two-level parking facility providing accommodations for 194 automobiles. The premises on which the Project is to be located are hereinafter referred to as "the Project Area."

In passing upon the Application, the Authority has considered the Application itself, all documents, plans and exhibits filed therewith or referred to therein, the oral evidence presented at the hearing, the exhibits offered in evidence at the hearing and the arguments and statements made at the hearing. The members of the Authority have also viewed the Project Area.

The Project as defined in the Application constitutes

a "project" within the meaning of said Chapter 121A, Section 1, providing, as it does, for the construction, operation and maintenance of a decent, safe and sanitary residential building in part of a larger area which was previously declared to be a substandard and decadent area under Chapter 121 of the General Laws by the Authority in its "Land Assembly and Redevelopment Plan for the Whitney Redevelopment Area" and was taken by the Authority by eminent domain on July 14, 1960 in furtherance of said Redevelopment Plan.

Conditions exist which warrant the carrying out of the Project and in the opinion of the Authority the cost of the Project has been correctly estimated in the Application and the Project will be practicable. As stated above, the Project Area is included within a larger area which the Authority has already found to be substandard and decadent under the provisions of Chapter 121 and has taken by eminent domain. The carrying out of the Project will provide desirable housing accommodations for persons of modest means, of which there is a serious shortage in Boston. The Project is near the Mission Church, a large group of medical and educational institutions, museums, parks and other public facilities, and is adjacent to direct rapid transit MTA service to downtown Boston. The Authority has received and has in its possession a letter from the Federal Housing Administration stating that the entire Whitney Street Redevelopment Area, of which the

Project Area is a part, is eligible for Federal Housing Administration mortgage insurance under Section 220 of the National Housing Act, and the Applicants have received informal approval from the Federal Housing Administration for mortgage financing for the Project. All of the funds which will be required in addition to those obtained from the Federal Housing Administration mortgage financing are already available to the Applicants. Pursuant to the contract between the Authority and the Beacon Redevelopment Corporation referred to in the application, a surety company performance bond will be given to the Authority for the amount of the construction cost. Once the Project improvements have been completed, they will themselves constitute security for the obligation to pay the rental due the Authority under the lease which is to be made by the Authority as provided in said contract.

The Project does not conflict with the Master Plan of the City of Boston.

The Project will result in a substantial financial return to the City of Boston inasmuch as under the terms of the lease referred to above there will be payable to the Authority a sizeable annual minimum rent which the Authority, in accordance with its existing Cooperation Agreement with the City of Boston, will remit to the City after deducting certain operating costs and expenses of the Authority.

The Project will not be in any way detrimental to the

best interests of the public or the City or to the public safety or convenience or be inconsistent with the most suitable development of the City. The Project will in fact forward the best interests of the City and will constitute a public use and benefit. The structure to be erected under the Project is an attractive and efficiently designed high-rise apartment building with ample light and air and appurtenant green spaces and will enhance the general appearance of the Area and furnish attractive and necessary accommodations for families of modest means.

The carrying out of the Project will not of itself involve the destruction or rehabilitation of buildings occupied in whole or in part as dwellings since such destruction is being done in any event by the Authority in carrying out its Redevelopment Plan referred to above. The Authority has in fact already undertaken, and will be responsible for, the relocation of families displaced from the Project Area. Such relocation can be and is being accomplished. Many of the families formerly resident in the Project Area have already been satisfactorily relocated.

The Project Area does not include land within any location approved by the State Department of Public Works for the extension of the Massachusetts Turnpike into the City of Boston.

The minimum standards for financing, construction, maintenance and management of the Project as set forth in Exhibit E filed with and attached to the Application are hereby adopted and

imposed as rules and regulations (in addition to those hereinafter adopted and imposed) applicable to the Project for the same period as the Project is subject to the provisions of Chapter 121A of the General Laws and Chapter 652 of the Acts of 1960. The Authority hereby approves any financing made pursuant to Paragraph 8 of the Application which is insured by the Federal Housing Administration notwithstanding that the amount thereof is in excess of 90% of the estimated cost of the Project.

Exhibit D, filed with and attached to the Application, sets forth the permissions requested for the Project to deviate from zoning and other regulations in effect in the City of Boston. At the hearing, the Applicants abandoned the requests set forth in Sections III and IVB of Exhibit D.

Each of the permissions requested in Paragraphs IA1, IA3a, IVA, IVC, and IVE of said Exhibit D is hereby granted.

With reference to Paragraph IA2 of said Exhibit D, there would appear to be no reason why a developer should not be able to elect under Section 16(15) of Chapter 488 of the Acts of 1924, as amended (hereinafter called "the Zoning Regulations"), to take frontage on any one of three abutting streets as well as on either of two abutting streets. An election to take such frontage on Longwood Avenue minimizes the number of additional zoning deviations required for the Project. Insofar as said provision of Section 16(15) might be construed so as to prevent

taking the front of the apartment house building on Longwood Avenue, the Authority hereby permits a deviation from said provision so as to allow the Applicants to elect to take the front of said building on Longwood Avenue.

Said Exhibit D and Paragraph 14 of the Application refer to parking facilities consisting of two levels which will be part of the Project. Such facilities are to provide spaces for at least 194 automobiles in accordance with the Redevelopment Plan above referred to (rather than 193 as stated in the Application). The ground level of these facilities will consist of paving placed upon the bare ground. The land upon which the parking facilities will be located is sloping so that the second level, constructed entirely of a fireproof concrete slab, will be at approximately the same level as a portion of the adjacent ground within the Project Area. The parking facilities will be without bearing walls and open on two sides and not enclosed by a roof, nor will they contain any heating system. They will contain an appropriate number of portable fire extinguishers stationed at appropriate intervals as determined by the Fire Department of the City of Boston. Cars will not be repaired or serviced with gas or oil in the parking facilities. The facilities will be screened from public view by appropriate planting.

By providing for parking facilities on two levels, the Project avoids the dedication of a large proportion of the open

area to asphalt parking space and thereby preserves a large landscaped green area and enhances the attractiveness of the Project.

For the reasons set forth in the Application and supporting documents, including Exhibit D, in the evidence presented at the hearing, and in this report, insofar as said parking facilities might be considered to be a building of more than one story, the Authority hereby grants permission for such facilities to deviate from the provisions of Section 16(12) of the Zoning Regulations, as requested in Paragraph IA3b of Exhibit D.

For the reasons set forth in the Application and supporting documents, including Exhibit D, in the evidence presented at the hearing, and in this report, insofar as the proposed parking facilities might be construed not to be "open-air parking space" within the meaning of Section 4(5) of the Zoning Regulations, the Authority hereby permits deviations from the requirements of said Section 4 and from the requirements of Section 5 of the Zoning Regulations so as to permit the use of the Project Area for said parking facilities, as requested by the Applicants in Paragraph IB.

For the reasons set forth in the Application and supporting documents, including Exhibit D, in the evidence presented at the hearing, and in this report, insofar as the parking facilities might be construed to be a garage, the Authority hereby grants permission, as requested in Exhibit D, Paragraph IVD, for

the facilities, in which no automatic sprinklers are to be installed, to deviate from the provisions of Section 807(f) of the Building Code which impose a requirement of automatic sprinklers and other suitable firefighting apparatus in a garage and from the similar provisions of Rule 6, Rules and Regulations of the Department of Public Safety of the Commonwealth of Massachusetts issued under General Laws, Chapter 148, Section 10. The Authority finds that automatic sprinklers in the parking facilities would not contribute to safety and that the purposes of said Section of the Building Code and of said Rule 6 can and will be satisfied by the rule and regulation, which the Authority hereby adopts and imposes, in addition to those hereinabove adopted by the Authority and as applicable to the Project for the same period, that the said parking facilities contain an appropriate number of portable fire extinguishers stationed at appropriate intervals as determined by the Fire Department of the City of Boston.

For the reasons set forth in the Application and supporting documents, including Exhibit D, in the evidence presented at the hearing, and in this report, insofar as said parking facilities might be construed to be a garage within the meaning of the Acts of 1913, Chapter 577, as amended, within 500 feet of one or more buildings occupied in whole or in part as a public or private school having more than 50 pupils, or as a public or private

hospital having more than 25 beds, or as a church, the Authority hereby determines that such parking facilities or garage will not be substantially detrimental to any such school, hospital or church, and an application may be granted and a permit issued for the erection, maintenance and use of such parking facilities or garage anything in Chapter 345 of the Acts of 1922 to the contrary notwithstanding. The granting of such application and the issuance of such permit is reasonably necessary to the carrying out of the Project.

The Authority hereby adopts and imposes, in addition to those hereinbefore set forth and as applicable to the Project for the same period, the following rules and regulations: that commercial auto repair work shall not be carried on at the parking facilities, nor shall cars there be serviced with gas or oil; and that the parking facilities shall be screened from public view by appropriate planting.

For the reasons set forth in the Application and supporting documents, including said Exhibit D, and in the evidence presented at the hearing, and in this report, the Authority hereby finds that each and every one of the granted permissions is reasonably necessary for the carrying out of the Project and may be granted without substantially derogating from the intent and purposes of the applicable laws, codes, ordinances or regulations, respectively; the Authority is also satisfied, by reliable and generally accepted tests, and by experience in other utilities, that

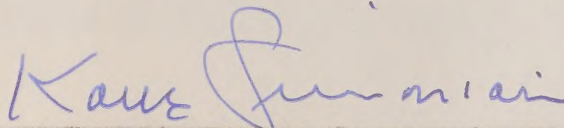
the other designs, construction, materials, apparatus, equipment or methods specified in the Application and supporting documents, including Exhibit D, and in the evidence presented at the hearing will sufficiently satisfy the purpose for which it or they are to be used and the purposes of such law, code, ordinance or regulation.

The Authority hereby finds that the Application and the Project conform to and comply with each and every applicable requirement of Chapter 121A of the General Laws, Chapter 652 of the Acts of 1960, and the applicable Rules and Regulations of the Authority, and the Authority, for these reasons and for the reasons set forth in the Application and supporting documents, including Exhibit D, and the evidence presented at the hearing, and in this report, hereby approves the Project and consents to the formation of Charlesbank Apartments, Inc., as requested in the Application, and consents to the filing of the Agreement of Association for such corporation substantially in the form annexed to said Application.

I, KANE SIMONIAN, hereby certify that I am the Secretary of BOSTON REDEVELOPMENT AUTHORITY (hereinafter called "the Authority"), and that at a regular meeting of the members of the Authority duly held at the office of the Authority in Boston, Massachusetts on February 1, 1961 at which a quorum, consisting of Joseph W. Lund, Chairman of the Authority, Msgr. Francis J. Lally, Vice Chairman of the Authority, and James G. Colbert and Melvin J. Massucco, members of the Authority, was present and acting throughout, the attached Report and Decision was presented to the meeting by the Chairman of the Authority and was read and considered, whereupon, upon motion duly made and seconded, it was unanimously

VOTED: To adopt the Report and Decision by the Authority on the Application of Ernest Henderson, Robert M. Morgan, William J. Furlong, Carleton Hunneman and M. Murray Weiss for approval of a Redevelopment Project in the Whitney Street Redevelopment Area, which Report and Decision has just been read and considered, and to authorize and approve the Redevelopment Project referred to in said Application and consent to the formation of Charlesbank Apartments, Inc. to carry out the Project.

WITNESS my hand and the seal of the Authority this 7th day of February, 1961.


Secretary as aforesaid

Approved

Including, without limiting the generality of the foregoing, the "Report and Decision on Application by Ernest Henderson and Others for Authorization and Approval of Project under Chapter 121A of the General Laws of the Commonwealth of Massachusetts and Chapter 652 of the Acts of 1960 and for Consent to Formation of a Corporation to be Organized under the Provisions of Said Chapter 121A," the vote adopting said Report and Decision, the Project described in said Report and Decision, the consent to the formation of Charlesbank Apartments, Inc. contained in said Report and Decision, the rules and regulations for the Project contained in said Report and Decision, and the permissions contained in said Report and Decision for the Project to deviate from zoning, building and fire laws, codes, ordinances and regulations in effect in the City of Boston.

Mayor of the City of Boston

